

Jon N. Robbins
WEISBERG & MEYERS, LLC
3877 N. Deer Lake Rd.
Loon Lake, WA 99148
509-232-1882
866-565-1327 facsimile
jrobbins@AttorneysForConsumers.com
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON**

JAMES BAKER,) Case No.
)
Plaintiff,) COMPLAINT FOR VIOLATION
) OF FEDERAL FAIR DEBT
vs.) COLLECTION PRACTICES ACT
) AND INVASION OF PRIVACY
EVERGREEN PROFESSIONAL))
RECOVERIES, INC.,)
)
Defendant.)

I. NATURE OF ACTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA") and of the Revised Code of Washington, Chapter 19.16, both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of privacy by intrusion, ancillary to Defendant's collection efforts.

COMPLAINT FOR VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT-5

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3 **II. JURISDICTION**

4 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

5 **III. PARTIES**
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7 3. Plaintiff, James Baker, is a natural person residing in the State of
8 Washington, County of Kittitas, and City of Ellensburg.

9 4. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. §
10 1692a(3), and a “debtor” as defined by RCW § 19.16.100(11).
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12 5. At all relevant times herein, Defendant, Evergreen Professional
13 Recoveries, Inc., (“Defendant”) was a company engaged, by use of the mails and
14 telephone, in the business of attempting to collect a “debt” from Plaintiff, as
15 defined by 15 U.S.C. §1692a(5).
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18 6. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. §
19 1692a(6), and a “licensee,” as defined by RCW § 19.16.100(9).
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21 **IV. FACTUAL ALLEGATIONS**

22 7. At various and multiple times prior to the filing of the instant complaint,
23 including within the one year preceding the filing of this complaint, Defendant
24 contacted Plaintiff in an attempt to collect an alleged outstanding debt.
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1 Defendant's conduct violated the FDCPA and RCW § 19.16 in multiple ways,
2 including but not limited to:

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- 4 a. In connection with collection of a debt, using language the natural
5 consequence of which was to abuse Plaintiff, including referring to
6 Plaintiff as a deadbeat. (§ 1692d(2));
 - 7 b. Threatening to take an action against Plaintiff that cannot be legally
8 taken or that was not actually intended to be taken, including repeatedly
9 threatening to garnish Plaintiffs wages (§ 1692e(5)).

10 8. Defendant's aforementioned activities, set out in paragraph 8, also
11 constitute an intentional intrusion into Plaintiff's private places and into private
12 matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable
13 person. With respect to the setting that was the target of Defendant's intrusions,
14 Plaintiff had a subjective expectation of privacy that was objectively reasonable
15 under the circumstances.

16 9. As a result of Defendant's behavior, detailed above, Plaintiff
17 suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation,
18 embarrassment, mental anguish and emotional distress.

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22 **COUNT I: VIOLATION OF FAIR DEBT**
23 **COLLECTION PRACTICES ACT**

24 10. Plaintiff reincorporates by reference all of the preceding paragraphs.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered
against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct
violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY
ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON
CONSUMER PROTECTION ACT**

11. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered
against the Defendant for the following:

- A. Actual damages;
- B. Discretionary Treble Damages;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

1 **COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION**

2 12. Plaintiff reincorporates by reference all of the preceding paragraphs.

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff respectfully prays that judgment be entered
6
7 against the Defendant for the following:

- 8 A. Actual damages
9 B. Punitive Damages; and,
10 C. For such other and further relief as may be just and proper.
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13 Respectfully submitted this 12th day of August, 2009.
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16 s/Jon N. Robbins
17 Jon N. Robbins
18 WEISBERG & MEYERS, LLC
19 Attorney for Plaintiff
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